

CHAPTER 24:05:28

LEAST RESTRICTIVE ENVIRONMENT

Section

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24:05:28:01. Least restrictive program to be provided. Children in need of special education or special education and related services, to the maximum extent appropriate, shall be educated with children who are not disabled and shall be provided special programs and services to meet with their individual needs which are coordinated with the regular educational program whenever appropriate. ~~Removal~~ Special classes, separate schooling, or other removal of children with disabilities from the regular educational classroom may occur only when the nature or severity of the child's needs is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:28:02. Continuum of alternative placements. Alternative placements which must be made available include the following:

- (1) Regular educational programs with modification;
- (2) Resource rooms;
- (3) Self-contained programs;
- (4) ~~Day~~ Separate day school programs;
- (5) Residential school programs;
- (6) Home and hospital programs; and
- (7) Other settings.

For each of the programs listed in this section, the IEP team shall determine the extent to which related services are required in order for the child to benefit from the program. The length of the school day must be equal in duration to that of a regular public school day unless an adjusted school day is required to meet the individual needs of the child. The ~~committee~~ IEP team shall provide for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement, as applicable.

In those cases where placement is made in a ~~day~~ separate day school program or residential school program, the district may abide by the school term of the facility in which the child is placed based on the individual needs of the child.

Source: 16 SDR 41, effective September 7, 1989; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:28:03. Factors in determining placements. Each school district shall establish and implement procedures which ensure that the following factors are addressed in determining placements:

(1) Each child's educational placement must be individually determined at least annually and must be based on the child's individual education program;

(2) Provisions are made for appropriate classroom or alternative settings necessary to implement a child's individual education program;

(3) Unless a child's ~~individual education plan~~ IEP requires some other arrangement, the child shall be educated in the school which that child would normally attend if not disabled. Other placement shall be as close as possible to the child's home;

(4) Placement in the least restrictive environment will not produce a harmful effect on the child or reduce the quality of services which that child needs; and

(5) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:28:04. Program options. Each school district shall take steps to ensure that its children in need of special education or special education and related services have available to them the variety of educational programs and services available to children

without disabilities in the area served by the district, including art, music, industrial arts, ~~consumer and homemaking education~~ family and consumer science, and vocational education.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:28:05. Nonacademic and extracurricular services. Each school district shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children in need of special education or special education and related services an equal opportunity for participation in those activities. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to agencies which provide assistance to persons with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:28:06. Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities listed in this chapter, each school district shall develop and implement procedures which ensure that each child in need of special education or special education and related services participates with children without disabilities in those services and activities to the maximum extent appropriate to the needs of that child. The district shall ensure that each child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in nonacademic settings.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:28:08. Physical education services. Physical education services, specially designed if necessary, shall be made available to every child in need of special education or special education and related services, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades. Each child shall be afforded the opportunity to participate

in the regular physical education program available to children without disabilities unless the child is enrolled full time in a separate facility or the child needs specially designed physical education which cannot be provided in the regular physical education program.

If specially designed physical education is prescribed in the child's individual education program, the school district responsible for the education of the child shall provide the services directly or make arrangements for it to be provided through other public or private programs.

For children enrolled in separate facilities, the district responsible for the education of the child shall ensure that the child receives appropriate physical education services.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:28:09. Reintegration. ~~Decisions for movement of a student from a more restrictive to a less restrictive educational environment shall be made by the child's placement committee. The IEP team shall establish a plan to prepare the student, the receiving teacher, and the students in the receiving classroom for the move~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: ~~SDCL 13-37-1.1.~~

Law Implemented: ~~SDCL 13-37-1.1.~~